Deprivation of Liberty Safeguards

Annual Monitoring Report for Health and Social Care 2015-16

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DRIVING IMPROVEMENT THROUGH INDEPENDENT AND OBJECTIVE REVIEW

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Introduction

This is the seventh annual report on the operation of Deprivation of Liberty Safeguards (DOLS) in Wales.

The intention of the Mental Capacity Act 2005 is to protect and empower people who lack mental capacity, but in certain circumstances need to be deprived of liberty in order to receive appropriate care and treatment in hospitals and care homes. The DoLS were established in 2009 and set out a process to ensure that people who lack capacity to consent to their care are deprived of their liberty only if it is determined to be in their best interests. Independent assessments of their capacity are made, and decisions can be challenged by appeal to the Court of Protection.

A deprivation of liberty is described as:

- when a person is under continuous or complete supervision and control, and
- is not free to leave, and
- lacks capacity to consent to these arrangements.

The Cheshire West case set a precedent that anyone who meets the new legal test (as above) will be considered to be deprived of their liberty and subject to a protective care regime. They should benefit from regular independent reviews to ensure that their placement and any restrictions on their movement remain in their best interests. The DoLS have brought human rights centre stage and ensure that people who lack capacity and are deprived of their liberty have a representative voice. The safeguards provide for access to advocates and the right to legally challenge any deprivation of liberty.

Care homes and hospitals must apply to the relevant supervisory body for approval to deprive someone of their liberty. The DoLS set out the process that must be followed. The supervisory body must make sure that a number of specific assessments are carried out before granting an authorisation. In exceptional circumstances, a hospital or care home can deprive liberty for a short time through an urgent authorisation but a standard application must also be submitted to the relevant supervisory body.

Welsh Ministers are responsible for monitoring the operation of DoLS in Wales. This is carried out on their behalf by Healthcare Inspectorate Wales (HIW) and Care and Social Services Inspectorate Wales (CSSIW). This report analyses the 2015/16 data on the use of DoLS and summarises the key findings. The data is collected from the supervisory bodies, comprising 22 local authorities (councils) and seven health boards (HBs), which carry out the independent assessments of capacity.

The most recent data continues to show a rise in applications. To help address the increased volume of applications and to support health boards and councils to fulfil their legal obligations, Welsh Government provided funding to assist with best interest assessor training. A conference was held in October 2015 to promote awareness and understanding of the Mental Capacity Act provisions.

In addition, the Welsh Government established an action plan to improve the operation of DoLS which included the development of guidance for supervisory bodies and managing authorities with the aim of providing a 'once for Wales' solution. Revised standard forms for DoLS were published in October 2015 in order to ensure the correct processes are followed and promote consistency.

In March 2014, the House of Lords published a post-legislative scrutiny report of the Mental Capacity Act. The report concluded that DoLS were "not fit for purpose" and recommended a comprehensive review. The conclusion of the Law Commission review which followed, found that local authorities and the NHS were struggling to meet their legal obligations, and people living in other settings – such as supported living – were being left unprotected. After consultation on emerging solutions, the final report of the Law Commission review and a draft Bill were published on 13 March 2017. They recommend that the DoLS be repealed with pressing urgency and set out a replacement scheme, called the Liberty Protection Safeguards. In addition the draft Bill proposes wider reforms to the Mental Capacity Act that will provide greater safeguards for people before they are deprived of their liberty.

This year's Monitoring Report reaffirms the findings of the Law Commission and shows a system that is struggling to cope – in practice, the DoLS system is not 'fit for purpose' and consequently, the provision of additional resource and improved operating practices have had a limited impact in improving the operation of the system.

Key Findings

- **The number of applications**

There was a continued increase in the total number of DoLS applications received by supervisory bodies across Wales, rising by over fifteen per cent from 2014/15 to 12,298 applications from 10,681. The rate of increase was greatest in health boards (HBs) at 41 per cent. Local Authorities (councils) in the south west had a substantially higher number of applications than the rest of Wales. Also, there were large variations in the rate of increase between the different councils with some seeing a decrease in applications received.

- **Rate per 100,000 population**

The number of applications received per 100,000 people in each council varied across Wales with an average of 356 per 100,000. Whilst HBs received considerably fewer applications than councils overall, with an average of 142 per 100,000, there was also a wide variation in the rate of applications: Abertawe Bro Morgannwg received 340 applications per 100,000 population and Aneurin Bevan only 35. This extreme difference in applications between HB's seems difficult to explain

- **Urgent authorisations**

Seventy four per cent of applications relating to urgent authorisations processed by councils and HBs exceeded the seven day timeframe and two councils did not meet the timescale for assessments on any of the urgent applications they received. HBs had a higher proportion of urgent applications than councils with an average of just over 60 per cent of all applications being urgent. The volume of urgent applications appears to have resulted in longer delays before a decision could be made and there were significant variations across supervisory bodies in the time taken to process applications.

- **Standard authorisations**

Almost 27 per cent of applications to either councils or HBs had a decision within the required time scales. The average rate of standard applications to councils which met the 21 day target was almost 20 per cent. The volume of applications across both councils and HBs clearly had a negative impact on processing times for standard authorisations and the number of days taken to make a decision. The number of days taken to make a decision indicates that generally urgent applications were prioritised over standard.

- **Authorisations**

The average authorisation rate across councils was 56 per cent and for HBs the figure was 38 per cent. Again, there was a wide variation in rates across the supervisory bodies and between the authorisation rates of standard and urgent applications.

- **Length of time that authorisations are in place**

The length of time that authorisations were in place increased from last year and there were differences in the average length of time authorisations were granted across the different regions. Applications to councils were more likely to be authorised for up to a year at an average of just over 69 per cent; whereas applications to HBs were less likely to be authorised for a year and had an average duration of 120 days.

- **Reviews, Independent Mental Capacity Advocates and Court of Protection**

The number of DoLS authorisations where a review was carried out during the period still remained low at only 1% of authorisations. Overall, the vast majority of authorisations lapsed before a review was undertaken. Of the 12,298 applications in 2015/16, 336 had an Independent Mental Capacity Advocate (IMCA) appointed and 39 were referred to the Court of Protection.

Analysis

This year's report has looked at whether the additional resources and the revised guidance have helped in streamlining the process for supervisory bodies and improving effectiveness. While there has undoubtedly been benefit in Welsh Government having established a single process and a consistent set of documents for DoLS applications, it is not possible to determine whether this has helped to improve practice. The continuing volume of applications has meant that overall, the provision of additional resource and streamlined processes have had a limited impact in improving the operation of the system.

- **Effectiveness of DoLS**

The proportion of authorisations meeting decision time targets indicates that overall councils and HBs are continuing to struggle to cope with the volume of applications despite evidence of having increased capacity in most cases. The data indicates that urgent applications are prioritised but this does appear to have a knock on effect on the time taken to process standard applications. Most councils are dealing with significant backlogs. The delays in processing applications and carrying out assessments, coupled to the low levels of reviews, increase the risk that people could be deprived of their liberty without the protection of the safeguards.

- **Validity of longer length authorisations and people's best interest**

Whilst The Code of Practice on DoLS supports the use of short authorisations, the data shows that the length of time authorisations were in place has further increased. Applications to councils are more likely to be authorised for up to a year and the safety net provided by the completion of reviews is not effective with only one percent of reviews carried out during the year.

- **Capacity to support the demand for DoLS applications**

The continued high level of applications for authorisations, together with the further increase in 2015/16, remains a significant pressure on council resources. The data indicates that in most if not all councils, the pressure of managing the DoLS processes (including conducting assessments and reviews) exceeds the available resources. This is despite evidence that capacity has been increased with councils seeking to appoint dedicated staff. Welsh Government funding has enabled an increase in best interest assessors (BIAs). In some councils this has been achieved by training social workers to undertake this role. The availability and cost of appointing independent BIAs remains a challenge.

- **Training of staff in hospital settings to address possible over reliance on DoLS**

During HIW's inspection process the knowledge of staff in relation to DoLS has been very variable. HIW has found that some staff have very little knowledge around the process whereas other staff have a good working knowledge. Clearly the second group of staff are more equipped to explore options other than DoLS and conversely, where there is less understanding other options maybe less likely to be considered.

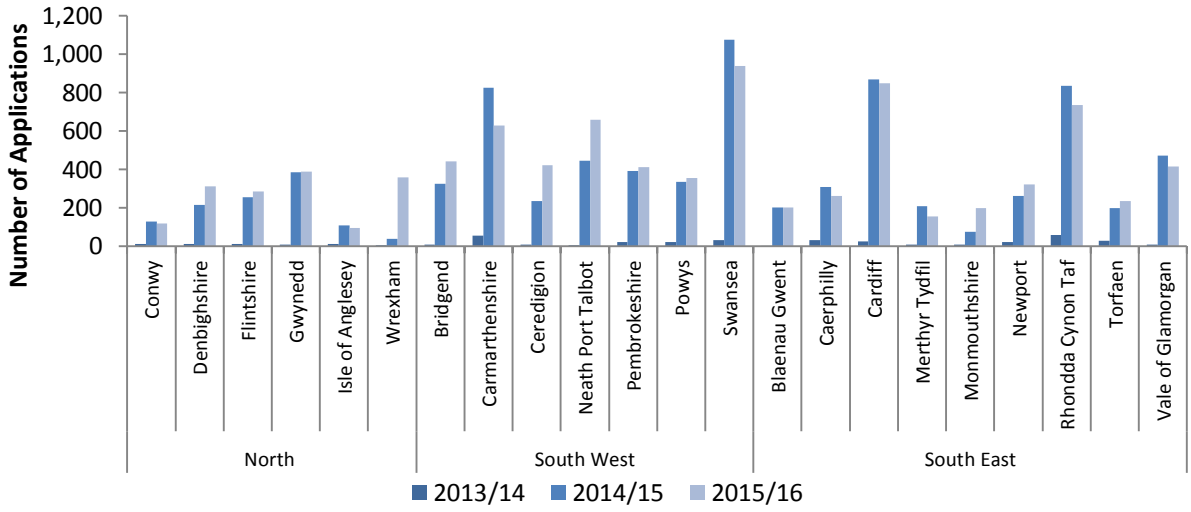
Also there may be an issue within some dementia care wards where there appears to be a blanket approach to making all the patients accommodated subject to the DoLS process. Training of staff in this area is essential to ensure they are equipped and able to determine when patients require the application of the DoLS. We did not find that such training was consistently being used to improve skills in this area.

Number of applications

There has been a substantial increase in applications since 2014-15. In 2013/14 there were 631 applications, this increased to 10,681 in 2014/15 and in 2015/16 there were 12,298 applications[1]. Of the 12,298 applications received, 8,792 were to councils. This is an increase of 7.3 per cent since 2014/15.

However, there are large differences in the rate of change between the different councils, for example, Wrexham had nearly ten times the number of applications in 2015/16 as received in 2014/15; however, Monmouthshire had only three times as many. During the same period Merthyr Tydfil and Carmarthenshire both saw a decrease in applications received of approximately 25 per cent, see Figure 1a.

Figure 1a. Number of applications to Local Authorities (2013 to 2016)

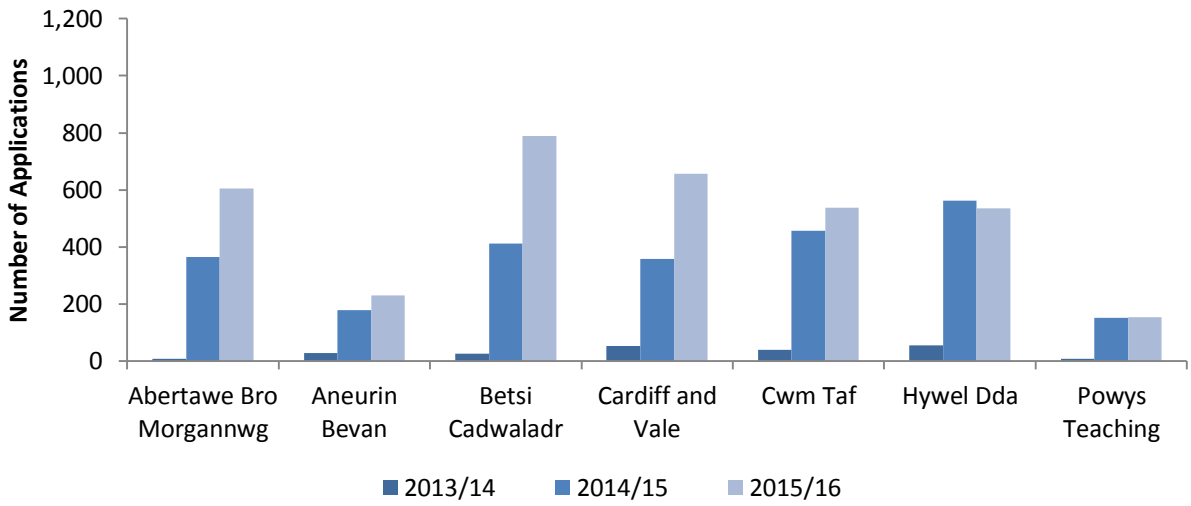


Councils in the south west (Bridgend, Carmarthenshire, Ceredigion, Neath Port Talbot, Pembrokeshire, Powys and Swansea) had a substantially higher number of applications than the rest of Wales, with an average of 551compared to a national average of 400. This is despite the number of care homes in this region being roughly the same as the other regions (256 in the south west, 255 in the north and 250 in the south east). In comparison, HBs received an average of 501 applications.

HBs received 3,506 applications and show a similar pattern of increase. The rate has been greater for HBs than for councils with an increase of 41.0 per cent (2,486 applications were received in 2014/15). However, this is not consistent as both Betsi Cadwaladr and Cardiff and Vale had nearly double the number of applications, while Hywel Dda had a small decrease, see Figure 1b.

[1] 7,679 applications were processed during the year with the remainder either still in progress at 31st March 2016 or had missing data.

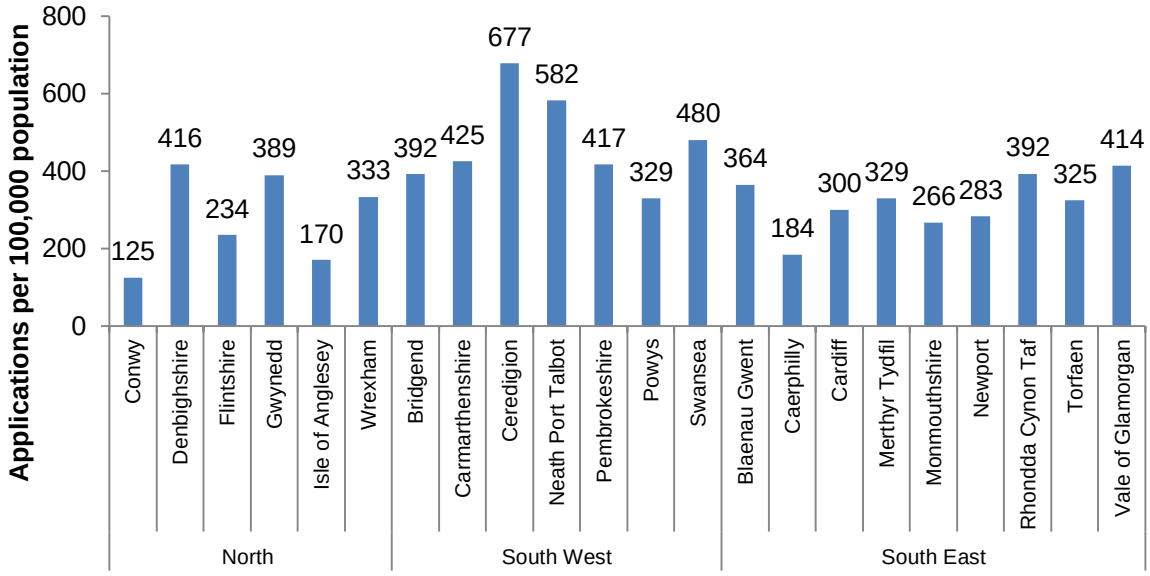
Figure 1b. Number of applications to Health Boards (2013 to 2016)



To aid comparison Figure 2a shows the number of applications received per 100,000 population. For councils, the average number received was 356 per 100,000 population but there were significant variations. Ceredigion had the highest number of applications when compared to the population, with 677 per 100,000 while Conwy had 125 applications per 100,000.

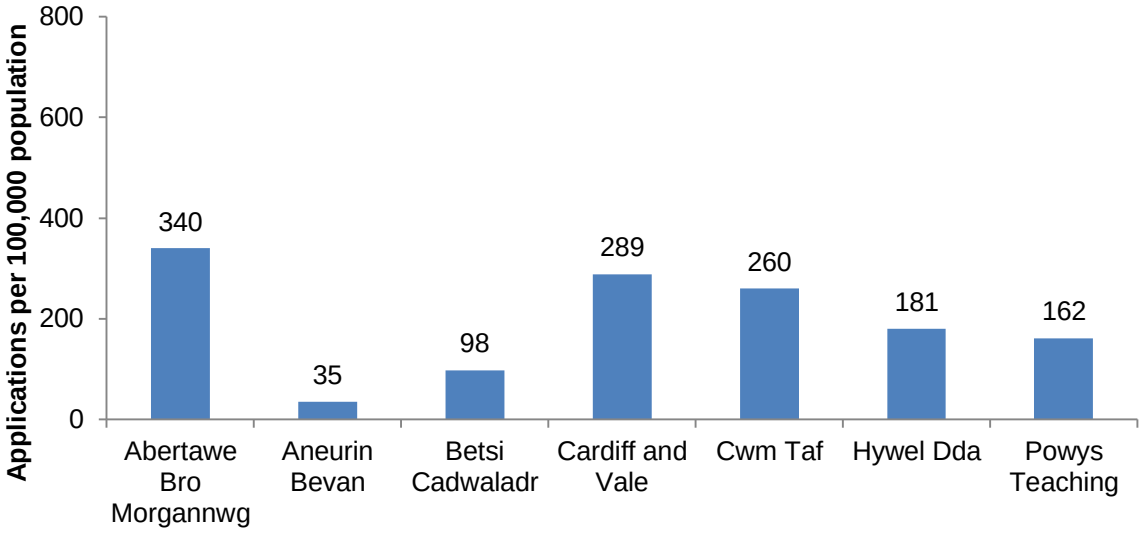
Councils in the south west had a considerably higher rate of applications with an average of 472 applications per 100,000 people, while those in the south east had an average of 317 and the North 278.

Figure 2a. Number of applications to Local Authorities by 100,000 population (2015-16)



For the purpose of this analysis, the population for HBs has been calculated by aggregating the populations of the council areas they cover. The average for HBs is 142 applications per 1000 population and Figure 2b shows there are also significant variations across the HBs with Abertawe Bro Morgannwg receiving 340 applications per 100,000 and Aneurin Bevan receiving only 35.

Figure 2b. Number of applications to Health Board by 100,000 population Boards (2015/16)



Authorisation type and timeliness

The authorisation of a deprivation of liberty can take two forms, urgent or standard. Where deprivation of liberty unavoidably needs to commence before a standard authorisation can be obtained, managing authorities may authorise a deprivation of liberty for a short period of time – seven days (this may be extended by a further seven days). This urgent authorisation must be accompanied by a request to the supervisory body for a standard authorisation for which the assessments must be completed within five days.

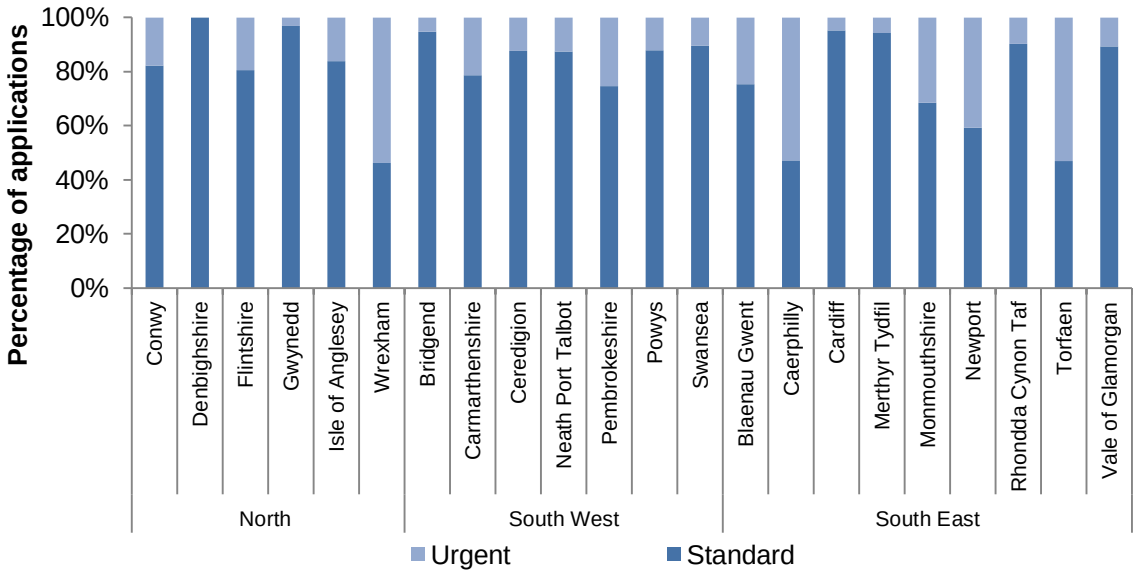
For other cases, an application for a standard authorisation must be made to the Supervisory Body. Assessments relating to the standard authorisation should be completed by the supervisory body within 21 days.

Ratios of urgent to standard applications

Figure 3a shows the ratios of urgent applications to standard applications for each council. Of the total applications to councils in 2015/16, 7,181 related to standard and 1,496 to urgent authorisations. On average across councils, nearly 20 per cent of all applications related to urgent authorisations.

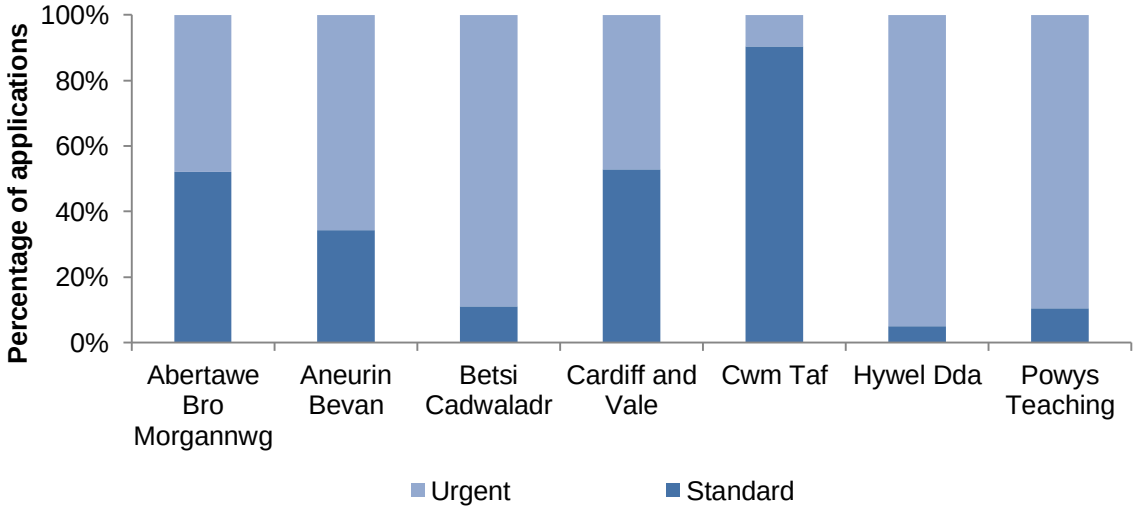
Some councils such as Caerphilly, Wrexham and Torfaen have over 50 per cent of their applications relating to urgent authorisations. In contrast, Denbighshire received no applications relating to urgent authorisations and Gwynedd had only 3 per cent.

Figure 3a. Proportion of the type of applications to Local Authorities (2015/16)



HBs have a higher proportion of applications relating to urgent authorisations than councils with 1,340 applications for standard authorisations and 2,132 applications relating to urgent authorisations. This means an average of 63 per cent of all applications to HBs related to urgent authorisations, see Figure 3b. However, this rate varied considerably across HBs with 95 per cent in Hywel Dda, 89 percent in Powys Teaching and Betsi Cadwaladr and 9 per cent in Cwm Taf.

Figure 3b. Proportion of the type of applications to Health Boards (2015/16)



Time between application and decision

Urgent and standard authorisations have different timescales for the completion of assessments:

- 73 percent of standard applications that were processed exceeded the 21 day time period within which the supervisory bodies have to carry out the assessments.
- 74 per cent of applications relating to urgent authorisations exceeded the seven day time limit for a deprivation of liberty - with 53 per cent exceeding the maximum period of 14 days.

These results show a deteriorating position from last year where 56 per cent of standard applications exceeded the 21 day deadline.

Table 1 shows the detailed breakdown of the number of applications received, the percentage that were authorised, the percentage within the 21 and seven day timescales and the average number of days taken to make a decision.

The average percentage of applications relating to urgent authorisations that have a decision made within seven days is only 28 per cent for councils, increasing to 47 per cent within 14 days (the maximum period an urgent authorisation should be in force). Across all councils there were 220 requests for an extension to urgent authorisations, which represents 15 per cent of all urgent applications

Table 1 also shows how many days each application took on average to receive a decision. The results show that there were significant delays and a wide variation in times taken by councils. The picture is similar, though not so pronounced for HBs where 38 percent of standard applications had a decision within 21 days.

Table 1. The number, authorisation rate, percentage meeting decision time targets and the average number of days before a decision for all applications (2015/16)

	Standard				Urgent			
	Number Received	Authorised	Meeting Decision Time	Average Days Before Decision	Number Received	Authorised	Meeting Decision Time	Average Days Before Decision
Blaenau Gwent	153	40%	5%	126	50	53%	0%	71
Bridgend	419	73%	14%	88	24	77%	55%	13
Caerphilly	123	38%	23%	84	138	41%	2%	85
Cardiff	808	66%	21%	76	42	69%	38%	19
Carmarthenshire	465	7%	41%	61	127	23%	36%	32
Ceredigion	311	20%	45%	62	44	48%	24%	36
Conwy	97	99%	24%	77	21	81%	29%	13
Denbighshire	313	23%	9%	72	0	0%	None	None
Flintshire	230	81%	16%	74	56	82%	23%	39
Gwynedd	367	57%	30%	102	12	73%	18%	71
Isle of Anglesey	78	71%	0%	161	15	100%	0%	263
Merthyr Tydfil	145	53%	22%	77	9	33%	33%	11
Monmouthshire	136	44%	12%	121	63	50%	5%	111
Neath Port Talbot	575	82%	6%	99	83	57%	50%	10
Newport	191	55%	35%	80	132	48%	2%	116
Pembrokeshire	307	68%	41%	48	105	64%	49%	20
Powys	311	35%	7%	97	43	68%	5%	75
Rhondda Cynon Taf	664	44%	20%	84	72	69%	7%	56
Swansea	840	66%	14%	81	98	77%	48%	10
Torfaen	111	48%	39%	115	125	42%	4%	105
Vale of Glamorgan	372	64%	20%	87	45	63%	60%	9
Wrexham	165	26%	17%	97	192	42%	17%	51
LA Average	326	55%	20%	84	68	57%	28%	46
Abertawe Bro Morgannwg	299	50%	39%	36	274	49%	32%	23
Aneurin Bevan	79	41%	32%	52	151	30%	17%	40
Betsi Cadwaladr	87	53%	24%	40	701	28%	1%	29
Cardiff and Vale	346	56%	42%	37	309	62%	65%	7
Cwm Taf	486	14%	37%	45	51	21%	35%	20
Hywel Dda	27	19%	74%	15	509	15%	35%	18
Powys Teaching	16	7%	20%	44	137	11%	7%	56
HB Average	191	37%	38%	40	305	39%	28%	21

The delays in decision making raise a serious concern about the effectiveness of the safeguards and the risk of unauthorised and unnecessary deprivations of liberty in hospitals and care homes.

Authorised applications

When deciding whether an application should be authorised, there are six assessments that must be made (see Glossary). These are:

- Age
- Best Interests
- Mental Capacity
- Eligibility
- Mental Health
- No Refusals

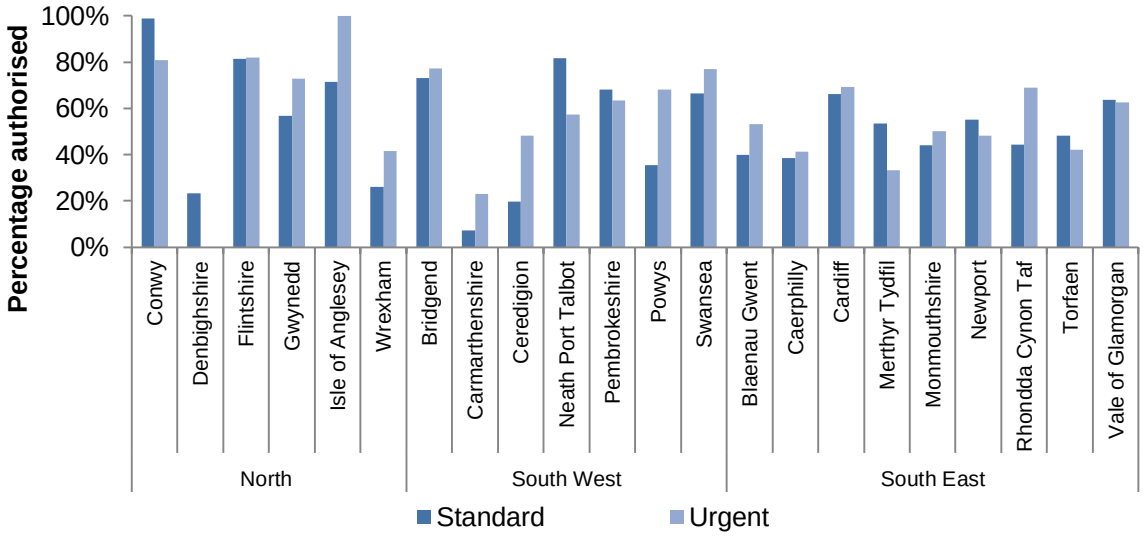
In addition to failing these assessments, applications may also not be authorised for other reasons such as being withdrawn, cancelled, or discharged from the service.

Of the 7,679 applications processed in 2015/16, the total number of authorisations was 3,394. This means that less than 50 per cent of all applications were authorised in 2015/16.

Councils processed 4,220 applications, of which 3,332 were standard authorisations and 888 related to urgent. A total of 2,324 authorisations were made by councils in 2015/16, 504 of which related to urgent authorisations. The average authorisation rate across all councils was 55 per cent.

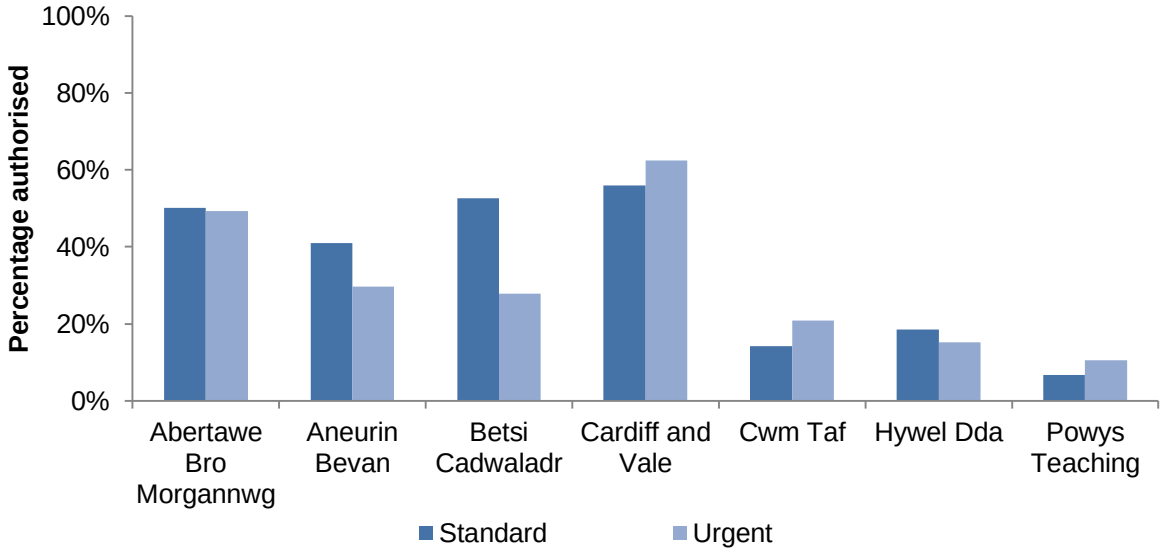
Figure 4a shows the proportion of applications that were authorised by each council. Applications relating to urgent authorisations were more likely to be authorised than standard across Wales. However, the position was variable and the rate of urgent to standard authorisations was much higher in some councils such as Powys, Ceredigion and Isle of Anglesey and lower in others, such as such as Neath Port Talbot and Merthyr Tydfil.

Figure 4a. Proportion of applications authorised by Local Authorities (2015/16)



Of the 3,506 applications received by HBs, 3,165 were processed in 2015/16, 1,171 of which were standard and 1,994 related to urgent authorisations. HBs authorised 1,070 applications in 2015/16, of which 438 were standard and 632 related to urgent authorisations. The average authorisation rate for HBs is lower than councils, with 34 per cent of all applications being authorised. Some HBs have a higher overall authorisation rate, such as Cardiff and Vale at 59 per cent. However, Powys Teaching authorised only 10 per cent of the applications received, see Figure 4b.

Figure 4b. Proportion of applications authorised by Health Boards (2015/16)



The number of applications that were refused on each of these bases is shown in Table 2. As can be seen, the majority of applications were withdrawn, cancelled or the individual in question died before a decision was made.

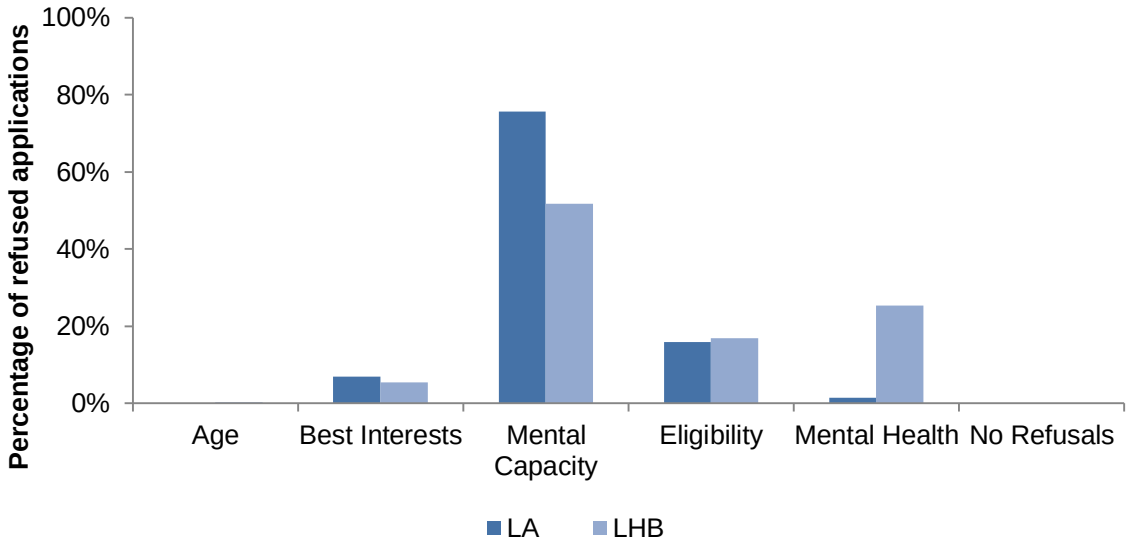
Table 2. The number of applications that were not authorised

	Age	Best Interests	Mental Capacity	Eligibility	Mental Health	No Refusals	Withdrawn, cancelled or deceased	Other
LA	0	19	209	44	Less than 5	0	1380	42
HB	Less than 5	14	131	43	64	0	1615	194
Total	Less than 5	33	340	87	68	0	2995	236[2]

However, if only those that were actually refused are included, the reasons differ between councils and HBs. Figure 5 shows that councils are more likely to refuse an application of the grounds of mental capacity than HBs. However, HBs are more likely to refuse of the basis of mental health.

[2] The others: 164 discharged, 14 transferred, 11 sectioned

Figure 5. The reasons applications were refused in Local Authorities and HBs (2015/16)



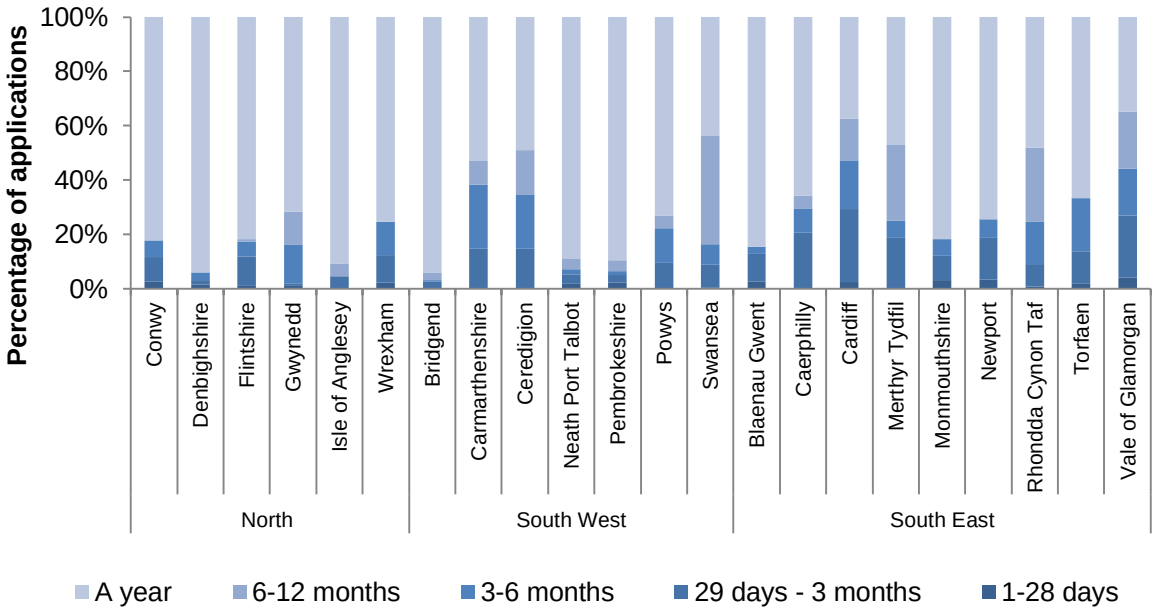
There were 2,995 applications that were withdrawn or where the relevant person died before a decision was made. This accounts for 24 per cent of the total applications. The average proportion of applications that were withdrawn or cancelled was 16 per cent for councils and 46 per cent for HBs.

While some councils had very few withdrawn, Carmarthenshire, Caerphilly and Ceredigion had over a quarter of all applications withdrawn. Compared to this, HBs had a much higher level of withdrawals, with the exception of Abertawe Bro Morgannwg and Cardiff and Vale which had fewer than half of the applications withdrawn.

Length of time authorisations were valid

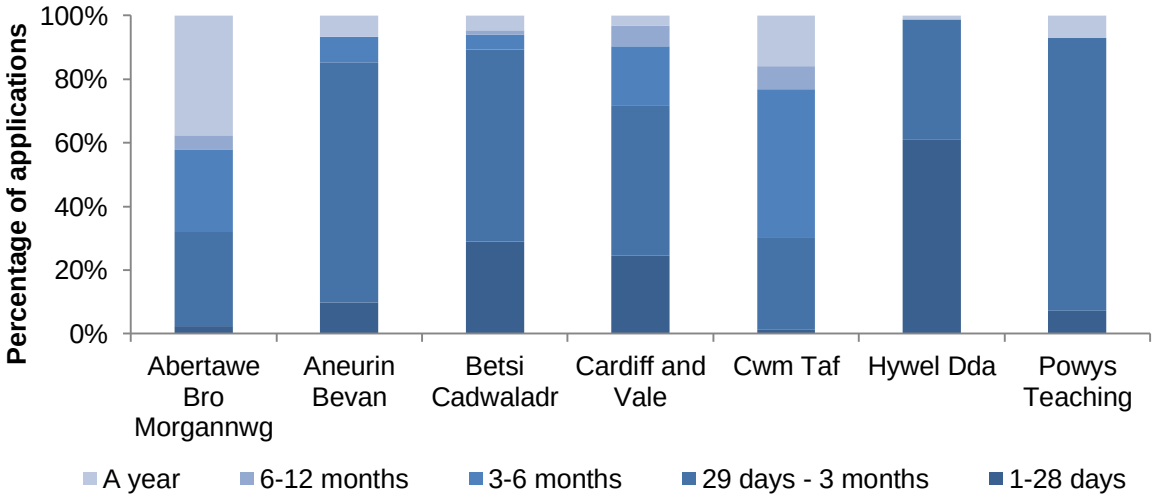
Once an application has been made, the supervisory body will then make an assessment of the information provided to determine how long the deprivation of liberty will be authorised for. Most applications to councils were authorised for up to a year - on average 69 per cent. This level varied across councils with some having considerably higher rates such as Bridgend and Denbighshire at 94 per cent, the Isle of Anglesey at 91 per cent. In contrast others had considerably lower rates: Vale of Glamorgan at 35 per cent and Cardiff at 37 per cent. See Figure 6a.

Figure 6a. Length of time applications are valid for by Local Authority (2015/16)



Applications to HBs were less likely to be authorised for a year with an average of 14 per cent. Sixty four percent were for three months or less. Here again, the rate varied across HBs: Abertawe Bro Morgannwg at 38 per cent for a year and 32 percent for three months or less; while Hywel Dda at 1 per cent for a year and 99 per cent for three months or less. See Figure 6b.

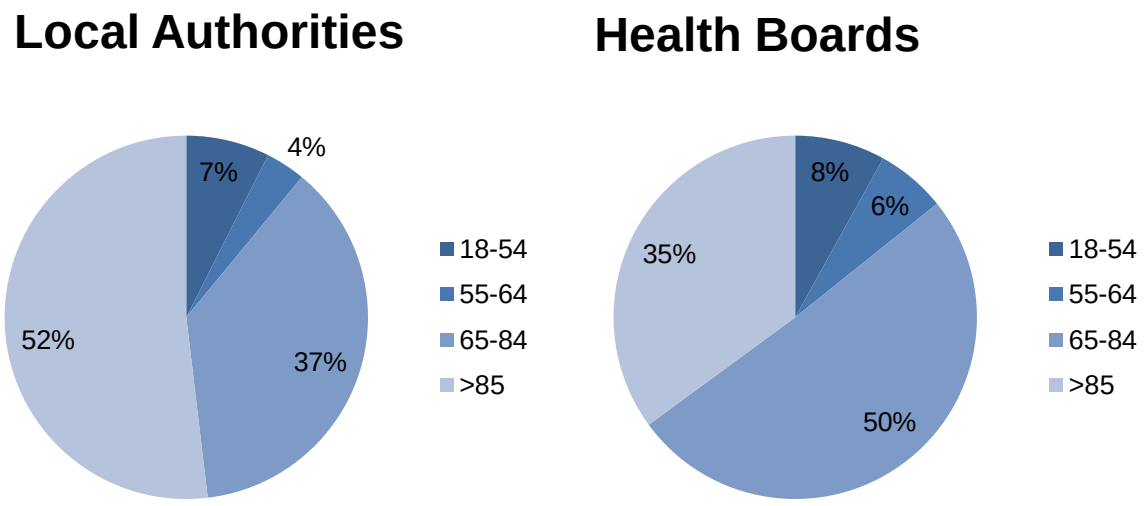
Figure 6b. Length of time applications are valid for by Health Board (2015/16)



Demographic Profiles

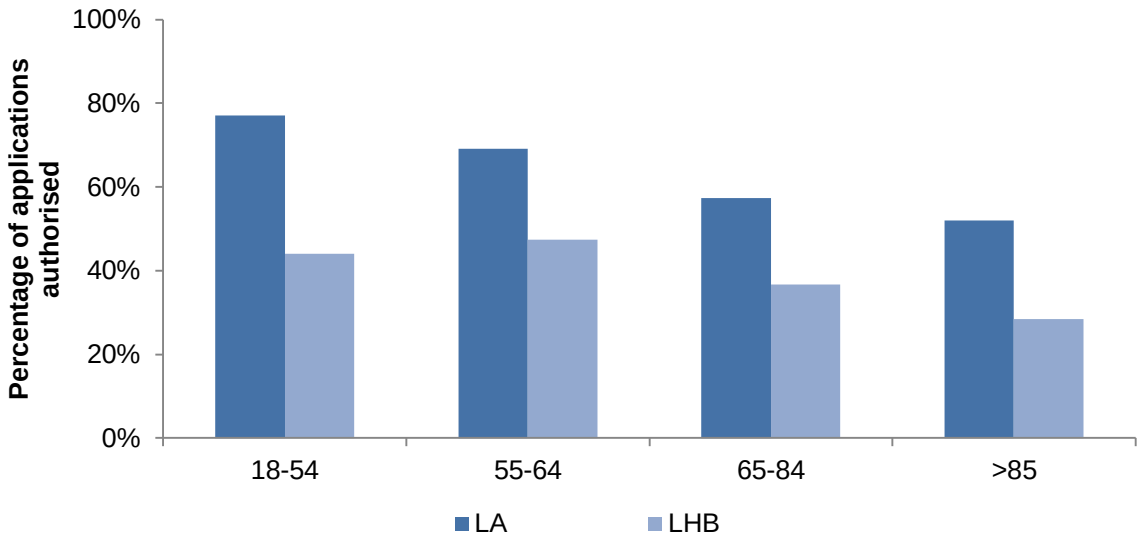
There were substantial differences in the demographic make up of the applications made to councils and HBs. In councils the majority of applications were in regards to older females with 66 per cent of the applications for females and 52 per cent for someone aged 85 and over, see Figure 7. However, HBs had a roughly equal gender split (51 per cent female) and a slightly younger profile with 35 per cent of applications being made for someone aged 85 and over. In both groups, nearly all applications were for someone who was white British (96 per cent).

Figure 7. Age profile of individuals who have had a DoLS application (2015/16)



Requests for older adults were significantly less likely to be authorised. The average authorisation rate across both councils and HBs was 48 per cent with a rate of 63 per cent for those aged 18 to 54 and 44 per cent for those aged 85 and over. As can be seen in Figure 8, the authorisation rate for applications to HBs was consistently lower than those to councils.

Figure 8. Percentage of application authorised by age bands (2015/16)



Reviews, Independent Mental Capacity Advocates (IMCA) and Court of Protection

The number of DoLS authorisations where a review was carried out during the period remained low at still only 1% of authorisations. The Code of Practice supports the use of short authorisations; however, the length of authorisations has increased and the vast majority lapse before a review is undertaken.

IMCAs are a safeguard for people who lack capacity to make some important decisions. The IMCA role is to support and represent the person in the decision-making process and make sure that the Mental Capacity Act 2005 is being followed.

There are three roles for IMCAs in cases of deprivation of liberty (39A, 39C and 39D):

- 39A appointed when the individual has no one to consult;
- 39C appointed in a case where the individual's representative is temporarily or suddenly no longer able to represent them; and
- 39D appointed to support the individual's representative, if that representative is unpaid (e.g. family member), and it is believed by the supervisory body is in need of support.

The number of cases where an IMCA was appointed decreased from over 500 in 2014/15 to 336 in 2015/16. Of these, 159 were 39A (81 per cent from councils), 37 were 39C (86 per cent from councils) and 140 were 39D (42 per cent from councils).

Any deprivation of liberty can be challenged, usually by the individual's representative, in the Court of Protection. A total of 39 referrals to the Court of Protection were made in 2015/16 (25 applications to councils and 14 to HBs). Despite their relatively small number of total DoLS applications, Wrexham and Flintshire had five referrals each

representing 20 per cent of council referrals. Similarly, nine of the 14 referrals in HBs were from applications to Aneurin Bevan. The majority of councils and HBs had one or fewer referrals in the year.

While any individual can challenge a deprivation of liberty, the appointment of an IMCA appears to make a difference as nearly half of referrals occurred when an IMCA had been appointed. Of the 39 referrals, ten occurred when a 39A was appointed, two when a 39C and five when a 39D was appointed.

Data Quality

The data in this report is used to monitor the use of the deprivation of liberty safeguards throughout Wales. It is submitted by Local Authorities and Health Boards to CSSIW but it is not verified by either CSSIW or HIW.

The monitoring report is published in the last quarter of each financial year. It is not accompanied by any additional tables or data releases.

The definition of what constitutes a deprivation of liberty was changed in 2014, and so data collected in the 2013/14 financial year is not directly comparable to that collected for the 2014/15 and 2015/16 financial years. More information about the changes introduced can be found here:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/485122/DH_Consolidated_Guidance.pdf

There may be a small number of cases where applications are inappropriately labelled as either standard or urgent and there may be a margin of error in the results. This is not considered to be significant.

GLOSSARY: Key terms used in the DoLS Monitoring Report

Advocacy	Independent help and support with understanding issues and putting forward a person's own views, feelings and ideas.
Assessment for the purpose of the deprivation of liberty safeguards	All six assessments must be positive for an authorisation to be granted.
• **Age**	An assessment of whether the relevant person has reached age 18.
• **Best interests assessment**	An assessment of whether deprivation of liberty is in the relevant person's best interests is necessary to prevent harm to the person and is a proportionate response to the likelihood and seriousness of that harm. This must be decided by a Best Interests Assessor.
• **Eligibility assessment**	An assessment of whether or not a person is rendered ineligible for a standard deprivation of liberty authorisation because the authorisation would conflict with requirements that are, or could be, placed on the person under the Mental Health Act 1983.
• **Mental capacity assessment**	An assessment of whether or not a person has capacity to decide if they should be accommodated in a particular hospital or care home for the purpose of being given care or treatment.
• **Mental health assessment**	An assessment of whether or not a person has a mental disorder. This must be decided by a medical practitioner.
• **No refusals assessment**	An assessment of whether there is any other existing authority for decision-making for the relevant person that would prevent the giving of a standard deprivation of liberty authorisation. This might include any valid advance decision, or valid decision by a deputy or done appointed under a Lasting Power of Attorney.
Best Interest Assessor	A person who carries out a deprivation of liberty safeguards assessment.

Capacity	Short for mental capacity. The ability to make a decision about a particular matter at the time the decision needs to be made. A legal definition is contained in section 2 of the Mental Capacity Act 2005.
Care Home	A care facility registered under the Care Standards Act 2000.
CSSIW	Care and Social Services Inspectorate Wales is the body responsible for making professional assessments and judgements about social care, early years and social services and to encourage improvement by the service providers.
Carer	People who provide unpaid care and support to relatives, friends or neighbours who are frail, sick or otherwise in vulnerable situations.
Conditions	Requirements that a supervisory body may impose when giving a standard deprivation of liberty authorisation, after taking account of any recommendations made by the Best Interests Assessor.
Consent	Agreeing to a course of action-specifically in this report to a care plan or treatment regime. For consent to be legally valid, the person giving it must have the capacity to take the decision, have been given sufficient information to make the decision, and not have been under any duress or inappropriate pressure.
Court of Protection	The specialist court for all issues relating to people who lack mental capacity to make specific decisions. It is the ultimate decision maker with the same rights, privileges, powers and authority as the High Court. It can establish case law which gives examples of how the law should be put into practice.
Deprivation of Liberty	Deprivation of liberty is a term used in the European Convention on Human Rights about circumstances when a person's freedom is taken away. Its meaning in practice is being defined through case law.
Deprivation of Liberty Safeguards	The framework of safeguards under the Mental Capacity Act 2005 for people who need to be

	deprived of their liberty in a hospital or care home in their best interests for care or treatment and who lack the capacity to consent to the arrangements made for their care or treatment
HIW	Healthcare Inspectorate Wales (HIW) regulates and inspects NHS services and independent healthcare providers in Wales against a range of standards, policies, guidance and regulations on order to highlight areas requiring improvement. .
Local Health Board	Local Health Boards fulfil the supervisory body function for health care services and work alongside partner local authorities, usually in the same geographical area, in planning long-term strategies for dealing with issues of health and well-being. They separately manage NHS hospitals and in-patient beds, when they are managing authorities.
Independent Hospital	As defined by the Care Standards Act 2000 - a hospital, the main purpose of which is to provide medical or psychiatric treatment for illness or mental disorder or palliative care or any other establishment, not being defined as a health service hospital, in which treatment or nursing (or both) are provided for persons liable to be detained under the Mental Health Act 1983.
Independent Mental Capacity Advocate (IMCA)	A trained advocate who provides support and representation for a person who lacks capacity to make specific decisions, where the person has no-one else to support them. The IMCA service was established by the Mental Capacity Act 2005 whose functions are defined within it.
Local Authority/Council	The local council responsible for commissioning social care services in any particular area of the country. Senior managers in social services fulfil the supervisory body function for social care services.
Managing authority	Care homes run by the Council will have designated managing authorities. The person or body with management responsibility for the particular hospital or care home in which a person is, or may become, deprived of their liberty. They are accountable

	for the direct care given in that setting.
Maximum authorisation period	The maximum period for which a supervisory body may give a standard deprivation of liberty authorisation, which cannot be for more than 12 months. It must not exceed the period recommended by the Best Interests Assessor, and it may end sooner with the agreement of the supervisory body.
Mental Capacity Act 2005	The Mental Capacity Act 2005 provides a framework to empower and protect people who may lack capacity to make some decisions for themselves. The five key principles in the Act are: 1. Every adult has the right to make his or her own decisions and must be assumed to have capacity to make them unless it is proved otherwise. 2. A person must be given all practicable help before anyone treats them as not being able to make their own decisions. 3. Just because an individual makes what might be seen as an unwise decision, they should not be treated as lacking capacity to make that decision. 4. Anything done or any decision made on behalf of a person who lacks capacity must be done in their best interests. 5. Anything done for or on behalf of a person who lacks capacity should be the least restrictive of their basic rights and freedoms.
Mental Capacity Act Code of Practice	The Code of Practice supports the MCA and provides guidance to all those who care for and/or make decisions on behalf of adults who lack capacity. The Code includes case studies and clearly explains in more detail the key features of the MCA
Mental Disorder	Any disorder or disability of the mind, apart from dependence on alcohol or drugs. This includes all learning disabilities.
Mental Health Act 1983	Legislation mainly about the compulsory care and treatment of patients with mental health problems. It includes detention in hospital for

	mental health treatment, supervised community treatment and guardianship.
Qualifying requirement	Any one of the six qualifying requirements (age, mental health, mental capacity, best interests, eligibility and no refusals) that need to be assessed and met in order for a standard deprivation of liberty authorisation to be given.
Relevant hospital or care home	The particular hospital or care home in which the person is, or may become deprived of their liberty.
Relevant person	A person who is, or may become, deprived of their liberty in a hospital or care home.
Relevant person's representative	A person, independent of the particular hospital or care home, appointed to maintain contact with the relevant person and to represent and give support in all matters relating to the operation of the deprivation of liberty safeguards.
Restriction of liberty	An act imposed on a person that is not of such a degree or intensity as to amount to a deprivation of liberty.
Review	A formal, fresh look at a relevant person's situation when there has been, or may have been, a change of circumstances that may necessitate an amendment to, or termination of, a standard deprivation of liberty authorisation.
Section 12 Doctors	Doctors approved under Section 12(2) of the Mental Heath Act 1983
Standard authorisation	An authorisation given by a supervisory body, after completion of the statutory assessment process, giving lawful authority to deprive a relevant person of their liberty in a particular hospital or care home.
Supervisory body	A local authority social services or a local health board that is responsible for considering a deprivation of liberty application received from a managing authority, commissioning the statutory assessments and, where all the assessments agree, authorising deprivation of liberty.

Supreme Court	The Supreme Court is the final court of appeal in the UK for civil cases, and for criminal cases from England, Wales and Northern Ireland. It hears cases of the greatest public or constitutional importance affecting the whole population
Unauthorised deprivation of liberty	A situation in which a person is deprived of their liberty in a hospital or care home without the deprivation being authorised by either a standard or urgent deprivation of liberty authorisation.
Urgent authorisation	An authorisation given by a managing authority for a maximum of seven days, which subsequently may be extended by a maximum of a further seven days by a supervisory body. This gives the managing authority lawful authority to deprive a person of their liberty in a hospital or care home while the standard deprivation of liberty authorisation process is undertaken.